IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12057 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRAKASHKUMAR BHARATBHAI PATEL

Versus

CONTROLLER OF EXAMINATION

Appearance:

MR SP HASURKAR for Petitioner

MR MITUL K SHELAT for Respondent No. 1, 2

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 27/03/2001

ORAL JUDGEMENT

1. Present petition has been filed by Prakashkumar Bharatbhai Patel for a direction on the respondent No.2 Gujarat University to allow him to appear in 7th and 8th semester of Engineering examination of the petitioner.

Interim order was passed by this Court directing the University to allow the petitioner to appear in 7th and 8th semester of the Engineering examination. However, this Court directed the University not to declare the result of the petitioner until further order. Mr. S.P. Hasurkar, learned counsel appearing on behalf of the petitioner submitted that the petitioner as per interim order of this Court has appeared in 7th semester, except in one subject and has also appeared in all subjects in 8th semester. It is submitted by learned counsel for the petitioner that the respondent University has not yet declared result of the petitioner for 7th and 8th semesters. I have also heard Mr. Mithul Shelat learned counsel appearing on behalf of the respondent University. Learned counsel submitted that the petitioner committed certain malpractices in the 6th semester examination and because of the pendency of this case, University could not take any action on the alleged malpractice. If there are specific allegation on malpractice then the University may proceed with the inquiry against the petitioner, but the 7th and 8th semester examination he has appeared, the result is required to be declared, otherwise the petitioner will lose further academic years. It is submitted that the next examination of the University is scheduled to be held from first week of June 2001, and therefore if the petitioner fails in the subjects of 7th and 8th semesters, then he will have to fill up the form for the next examination. Admittedly the petitioner did not appear in one subject in 7th semester. Therefore, in any event he will have to appear in the said subject in the next examination scheduled to be commenced from first week of June 2001. Having regard to this, I am of the view that the result of 7th and 8th semester examinations of the petitioner should be declared by the respondent University within a period of ten days from the date of receipt of this order. The respondents are further directed to accept the application form of the petitioner for the subjects on which he has failed in 7th and 8th semesters, subject to the condition that, such application form will be subject to the result of the inquiry to be completed by the University within three weeks from the date of receipt of this order.

2. Learned counsel for the petitioner submitted that, in view of the fact that the petitioner has already suffered loss of academic years, the University may be directed to take a lenient view if any inquiry is made against the petitioner. It is true that the petitioner could not complete his course within four years because of various reasons, including failure in different

examinations. However, since the petitioner has already lost some academic years, the University may consider his case taking a lenient view in respect of the allegation of malpractice against the petitioner. With the aforesaid observations and directions the petition is disposed of. Rule made absolute to the aforesaid extent. However, I make no order as to costs.

Dt: 27-3-2001 (P.K. Sarkar, J)

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